

WAYNE JONES, )  
)  
Petitioner, )  
)  
v. ) No. 4:11CV1459 JCH  
)  
STATE OF MISSOURI, )  
)  
Respondent. )

This matter is before the Court on petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Because “it plainly appears from the petition . . . that the petitioner is not entitled to relief,” the Court will dismiss the petition. Rule 4 of the Rules Governing § 2254 Cases.

Before federal habeas relief can be granted, a person in state custody is required to exhaust available state remedies. 28 U.S.C. § 2254(b)(1). In this case, petitioner

is currently pursuing state remedies in the state courts. As a result, the Court will dismiss this action without prejudice for failure to exhaust state remedies.

Furthermore, petitioner has failed to make a substantial showing of the denial of a constitutional right in relation to his failure to exhaust, which requires a demonstration “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right.” Khaimov v. Crist, 297 F.3d 783, 785 (8th Cir. 2002) (quotation omitted). Thus, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

Accordingly,

**IT IS HEREBY ORDERED** that petitioner’s petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DISMISSED** without prejudice.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability.

Dated this 19th day of February, 2012.

/s/Jean C. Hamilton

JEAN C. HAMILTON

UNITED STATES DISTRICT JUDGE